S T A T E O F N E W Y O R K

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I N A S S E M B L Y

April 25, 2016

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to requiring police officers and peace officers to issue appearance tickets to individuals charged with certain offenses instead of arresting such individuals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The criminal procedure law is amended by adding a new section 140.60 to read as follows:

S 140.60 APPEARANCE TICKETS.

1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, A POLICE OFFICER OR PEACE OFFICER SHALL NOT ARREST A PERSON FOR AN OFFENSE DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, UNLESS ONE OF THE CONDITIONS IN SUBDIVISION TWO OF THIS SECTION APPLIES. A POLICE OFFICER OR PEACE OFFICE MAY ISSUE EITHER AN APPEARANCE TICKET REQUIRING SUCH PERSON TO APPEAR BEFORE A LOCAL CRIMINAL COURT AT A DESIGNATED FUTURE TIME IN CONNECTION WITH AN ACCUSATORY INSTRUMENT TO BE FILED AGAINST SUCH PERSON THEREIN OR A NOTICE OF VIOLATION AND HEARING TO COMMENCE A PROCEEDING TO RECOVER A CIVIL PENALTY IN AN ADMINISTRATIVE PROCEEDING BEFORE AN ADMINISTRATIVE TRIBUNAL HAVING JURISDICTION OVER SUCH PROCEEDING IN LIEU OF MAKING AN ARREST.

2. A POLICE OFFICER, ACTING PURSUANT TO SECTION 140.10 OF THIS ARTICLE, OR A PEACE OFFICER, ACTING PURSUANT TO SECTION 140.25 OF THIS ARTICLE, MAY ARREST A PERSON FOR AN OFFENSE DESCRIBED IN SUBDIVISION THREE OF THIS SECTION ONLY IF:

(A) THE OFFICER IS UNABLE TO ASCERTAIN THE PERSON'S IDENTITY. AN OFFICER MAY RELY ON VARIOUS FACTORS RELEVANT TO ESTABLISHING IDENTITY IN ASCERTAINING A PERSON'S IDENTITY, INCLUDING BUT NOT LIMITED TO PERSONAL KNOWLEDGE OF SUCH PERSON, SUCH PERSON'S SELF-IDENTIFICATION, AND PHOTOGRAPHIC IDENTIFICATION. THERE IS NO REQUIREMENT THAT A PERSON PRESENT PHOTOGRAPHIC IDENTIFICATION IN ORDER TO BE ISSUED AN APPEARANCE TICKET IN LIEU OF ARREST; HOWEVER, IF OFFERED BY SUCH PERSON, AN OFFICER SHALL ACCEPT AS EVIDENCE OF IDENTITY FORMS OF IDENTIFICATION INCLUDING BUT NOT

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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LIMITED TO A VALID DRIVER'S LICENSE OR NON-DRIVER IDENTIFICATION CARD ISSUED BY THE COMMISSIONER OF MOTOR VEHICLES, THE FEDERAL GOVERNMENT,ANY UNITED STATES TERRITORY, COMMONWEALTH OR POSSESSION, THE DISTRICT OF COLUMBIA, A STATE GOVERNMENT OR MUNICIPAL GOVERNMENT WITHIN THE UNITED STATES OR A PROVINCIAL GOVERNMENT OF THE DOMINION OF CANADA; A VALID PASSPORT ISSUED BY THE UNITED STATES GOVERNMENT OR ANY OTHER COUNTRY; AND IDENTIFICATION CARD ISSUED BY THE ARMED FORCES OF THE UNITED STATES; AND AN ELECTRONIC BENEFIT TRANSFER CARD;

(B) THE OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT THE PERSON HAS COMMITTED A CRIME IN ADDITION TO AN OFFENSE DESCRIBED IN SUBDIVISION THREE OF THIS SECTION; OR

(C) THE PERSON PRESENTS AN IMMEDIATE THREAT OF BODILY INJURY TO THAT PERSON OR ANOTHER.

3. THIS SECTION SHALL APPLY TO THE ENFORCEMENT OF THE FOLLOWING OFFENSES:

(A) A PETTY OFFENSE, AS DEFINED IN SUBDIVISION THIRTY-NINE OF SECTION 1.20 OF THIS CHAPTER;

(B) AN OFFENSE CONTAINED IN TITLE 21 OF CHAPTER XXI OF SUBCHAPTER D OF THE STATE CODES, RULES AND REGULATIONS;

(C) AN OFFENSE CONTAINED IN CHAPTER 1 OF TITLE 56 OF THE NEW YORK CITY RULES AND REGULATIONS; AND

(D) A VIOLATION OF SECTION 153.09 OF THE NEW YORK CITY HEALTH CODE.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.